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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 07/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/044,682

Applicant(s)

SCHMIDT ET AL.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 22 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment (paper no. 5) dated 5-22-03 and this action is final.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the holders" in referring to the transfer device. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 depends from rejected claim 12 and includes all of the limitations of claim 12 thereby rendering this dependent claim indefinite.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to the horizontal slit it is unknown to what applicant is referring to in the limitation "...from one end to the other end..." It is unclear to what structure of the claimed invention is being referred to in this phrase of the claimed invention. Further, it is unclear to how

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the accommodation spaces of the holder are parallel if they are have differing distances between the opposite ends of the holder.

Claims 15-16 depend from rejected claim 14 and include all of the limitations of claim 14 thereby rendering these dependent claims indefinite.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by EP

Patent No. 819382 to Janssen et al. or DD Patent No. 231981 to Hamann et al.

Referring to claims 1 and 21, Janssen and Hamann disclose an apparatus for transferring poultry carcasses suspended from shackles from a first overhead conveyor – at 2 of Janssen and – at 1 of Hamann, to a second overhead conveyor – at 4 of Janssen and – at 4 of Hamann, in which overhead conveyors the carcasses are transported suspended from shackles – proximate 6a and 7a of Janssen and – at 11 of Hamann, a transfer wheel – at 8 of Janssen and – at 2 and/or 3 of Hamann, rotatable about a vertical axis and positioned between both the first and the second overhead conveyors, the transfer wheel being provided with holders – at 12 of Janssen and – see figures 1-2 of Hamann, for the carcasses, and orientation means – at 24 and 42-54 of Janssen and – at 5 and/or 6 of Hamann, further being present for equalizing the spatial initial orientation

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of the carcass in the holder at receipt on the transfer wheel and the spatial final orientation of the carcass in the holder at its discharge from the transfer wheel, the spatial initial orientation and the spatial final orientation being identical relative to the direction of travel of the carcass from the first overhead conveyor to the second overhead conveyor – see for example figure 1 of Janssen and figures 1-2 of Hamann.

Referring to claim 23, Janssen and Hamann disclose each holder maintains a constant orientation relative to the centerline during rotations of the transfer wheel – see for example figure 1 of Janssen and figures 1-2 of Hamann.

Claims 2 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Janssen.

Referring to claim 2, Janssen discloses the orientation means being adapted for keeping spatial orientation of the carcass in the holder constant during the transport on the transfer wheel – see for example figures 1-9.

Referring to claim 24, Janssen discloses an apparatus for transferring poultry carcasses from a first overhead conveyor to a second overhead conveyor comprising, a transfer wheel – at 10, positioned between the first – at 2 and the second – at 4 overhead conveyors, the transfer wheel having a central axis and a perimeter rotatable about the central axis, a plurality of bird holders – at 12, spaced about the perimeter of the transfer wheel for receiving poultry carcasses from the first overhead conveyor and carrying the poultry carcasses from the first overhead conveyor about the central axis to the second overhead conveyor and delivering carcasses to the second overhead conveyor, and orientation control means – at 24 and 42-54, responsive to the rotation of the transfer wheel for progressively maintaining the orientation of the bird holders and the carcasses carried by the bird holders as the transfer wheel rotates, so that the carcasses

retain their orientation as received from the first overhead conveyor as they move about the transfer wheel and are delivered to the second overhead conveyor in the same orientation as received from the first overhead conveyor – see for example figures 1-9.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipate by U.S. Patent No. 5,453,045 to Hobbel et al. or EP Patent No. 736255to Veraart.

Referring to claim 12, Hobbel and Veraart disclose an apparatus for transferring poultry carcasses from a first overhead conveyor – 11 of Hobbel and – 1 of Veraart to a second overhead conveyor – 12 of Hobbel and – 8 of Veraart, in which overhead conveyors the carcasses are transported suspended from shackles – see figures 1-4 of Hobbel and – at 2 of Veraart, comprising a transfer wheel – 15 of Hobbel and – 21 of Veraart rotatable about a vertical axis and positioned between both the first and second overhead conveyors, and orientation means – at 14-15 and 18-19 of Veraart and – at 16 and 19 of Hobbel, further being present for rotating each of the holders with respect to the transfer wheel during transport of the holders by the transfer wheel, wherein each central shaft is radially spaced from the shaft of the transfer wheel.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Janssen or EP Patent No. 259920 to Brakels et al. Janssen and Brakels disclose a holder for suspended transport of a poultry carcass, provided with two substantially parallel accommodation spaces – at 12 of Janssen and – at the slots in items 34a-34i of Brakels, for the legs of the carcass, the accommodation spaces each forming a continuous slit – at 12 of Janssen and – proximate 34a-34i of Brakels, in a horizontal direction from one end to the other end and open at both ends, the distance between the accommodation spaces at their one end being different from the distance therebetween at their other end – see for example figure 1 of Janssen and figure 3 of Brakels.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamann as applied to claim 1 above, and further in view of Janssen. Janssen discloses the orientation means being adapted for keeping spatial orientation of the carcass in the holder constant during the transport on the transfer wheel – see for example figures 1-9. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hamann and add the orientation means allowing the carcass to have the same orientation while on the transfer wheel of Janssen, so as to more accurately and quickly place the carcass onto another conveying line.

Claims 3-5 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen or Hamann as modified by Janssen as applied to claims 2 and 21 above, and further in view of U.S. Patent No. 4,791,704 to Chapman.

Referring to claims 3-4 and 22, Chapman discloses the holders being bearing mounted in the transfer wheel – 6 to be rotatable about themselves about a vertical axis – see for example figures 3-5 and columns 3-4, and the orientation means being adapted for relative rotation of the holders with respect to the transfer wheel – 6 – see for example figures 3-5 and columns 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of

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Janssen or Hamann as modified by Janssen and add the rotatable holders of Chapman, so as to allow for the device to be more flexible and adaptable in that the carcasses can be placed into different configurations during processing.

Referring to claims 5, Janssen and Hamann further disclose the holders rotate 1:1 with the transfer wheel – see for example figure 1 of Janssen and figures 1-2 of Hamann.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen as modified by Chapman or Hamann as modified by Janssen and Chapman as applied to claim 4 above, and further in view of U.S. Patent No. 6,033,299 to Stone et al.

Referring to claim 6, Janssen as modified by Chapman and Hamann as modified by Janssen and Chapman further disclose the orientation means comprising first orientation means for orienting a first of the holders and second orientation means for orienting others of the holders – see for example figure 1 of Janssen and figures 1-2 of Hamann. Janssen as modified by Chapman and Hamann as modified by Janssen and Chapman do not disclose the second orientation means are operated by the first orientation means. Stone et al. does disclose the second orientation means are operated by the first orientation means – see for example – 74 and columns 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Janssen as modified by Chapman and Hamann as modified by Janssen and Chapman and add the first orientation means operating the second orientation means of Stone et al., so as to provide more accurate and efficient control of the orientation means to allow for more efficient processing of the carcass.

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Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman as modified by Stone et al. as applied to claim 6 above, and further in view of U.S. Patent No. 5,453,045 to Hobbel et al.

Referring to claim 7, Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone further disclose the transfer wheel being connected to a vertical shaft in a rotatably fixed manner, the shaft being rotatable about the vertical axis – see figure 1 of Janssen and figures 1-2 of Hamann. Janssen and Hamann do not disclose the orientation means comprising a first driving disc provided on the first holder, a second driving disc placed loosely on the axis but retained in spatial orientation and a driving belt or driving chain running circumferentially about both. Hobbel et al. does disclose the orientation means comprising a first driving disc – 19 provided on the first holder - 17, a second driving disc – 16 placed loosely on the axis but retained in spatial orientation and a driving belt or driving chain running circumferentially about both – see for example figures 1-2 and columns 4-6. Therefore it would have been obvious to one of ordinary skill in the art to take the poultry transfer apparatus of Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone and add the driving discs and chain connected to the first holder of Hobbel et al., so as to provide an efficient means to drive the first holder so as to allow for easy transfer of the poultry carcass.

Referring to claim 8, Hobbel et al. discloses the diameter of both driving discs – 16 and 19 being equal – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the poultry transfer apparatus of Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone and add the diameter of

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both driving discs being equal of Hobbel et al., so as to have as many uniform components on the device as possible so as to make the manufacturing easier and less expensive.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over of Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone and Hobbel et al. as applied to claim 7 above, and further in view of U.S. Patent No. 5,344,360 to Hazenbroek. Hazenbroek discloses a tension pulley for driving the belt or chain – see for example figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the poultry transfer device of Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone and Hobbel et al. and add the tension pulley of Hazenbroek, so as to ensure the poultry carcasses are properly and effectively conveyed from one conveyor to another without any loss in speed in the conveyors or transfer apparatus.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman as modified by Stone et al. as applied to claim 6 above, and further in view of U.S. Application Publication No. 2002/0031998 to Kerstholt.

Referring to claim 10, Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone do not disclose the second orientation means comprising a first toothed wheel that is attached to the first holder in a rotatably fixed manner, a central toothed wheel freely rotatable on the axis and driven by the first toothed wheel, as well as second toothed wheels attached in a rotatably fixed manner to every other holder, which second toothed wheels are in driving engagement with the central toothed wheel. Kerstholt does disclose the second orientation means comprising a first toothed wheel – 41' that is attached to the first holder - 35 in a rotatably fixed manner, a central toothed wheel – 42' freely rotatable on the axis

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and driven by the first toothed wheel, as well as second toothed wheels – 41' attached in a rotatably fixed manner to every other holder – 35, which second toothed wheels are in driving engagement with the central toothed wheel – see for example figure 6 and page 3 paragraphs 46-48. Therefore it would have been obvious to one of ordinary skill in the art to take the poultry transfer apparatus of Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone and add the toothed wheels on the holder of Kerstholt, so as to drive the rotatable holder with the same drive means as the conveyor drive means.

Referring to claim 11, Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone do not disclose the second toothed wheels having a diameter that is equal to the one of the first toothed wheel. Kerstholt does disclose the second toothed wheels – 41' having a diameter that is equal to the one of the first toothed wheel – 41' – see figure 6. Therefore it would have been obvious to one of ordinary skill in the art to take the poultry transfer apparatus of Janssen as modified by Chapman and Stone and Hamann as modified by Janssen, Chapman and Stone and add the first and second toothed wheels having the same diameter of Kerstholt, so as to have as many uniform components in the apparatus as possible to make manufacturing quicker and easier.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hobbel and Veraart as applied to claim 12 above, and further in view of U.S. Patent No. 6,033,299 to Stone et al. Hobbel and Veraart do not disclose the orientation means being adapted for letting the holders rotate 1:1 with the transfer wheel. Stone et al. does disclose the orientation means being adapted for letting the holders rotate 1:1 with the transfer wheel – 70 - see for example column 3 lines 50-67 and column 4 lines 1-18. Therefore it would have been obvious to one of ordinary

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skill in the art to take the poultry transfer apparatus of Hobbel or Veraart and add the holders rotating 1:1 with the transfer wheel of Stone et al., so as to allow for the transfer wheel and holders to be driven by the same power means without any gearing or other components thus making the device cheaper to build and operate.

Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen or Brakels as applied to claim 14 above, and further in view of U.S. Patent No. 4,597,133 to van de Nieuwelaar.

Referring to claim 15, Janssen and Brakels do not disclose inclined turned end members being arranged on either side of one end of the accommodation spaces to prevent unintentional backwards movement of the legs. Van de Nieuwelaar does disclose inclined turned end members being arranged on either side of one end of the accommodation spaces to prevent unintentional backwards movement of the legs – see for example figures 2a-2c. Therefore it would have been obvious to one of ordinary skill in the art to take the holder of Janssen or Brakels and add the inclined end members of van de Nieuwelaar, so as to firmly hold the poultry carcass on the conveyor so that it can be conveyed quickly and have the necessary processing functions performed quickly and easily.

Referring to claim 16, Janssen and Brakels further disclose the distance between the accommodation spaces being larger at the one end than at the other end. Janssen and Brakels do not disclose inclined turned end members being arranged on either side of the one end of the accommodation spaces to prevent unintentional backwards movement of the legs out of the one end. Van de Nieuwelaar does disclose inclined turned end members being arranged on either side of the one end of the accommodation spaces to prevent unintentional backwards movement of

the legs out of the one end – see for example figures 2a-2c. Therefore it would have been obvious to one of ordinary skill in the art to take the holder of Janssen or Brakels and add the inclined end members of van de Nieuwelaar, so as to firmly hold the poultry carcass on the conveyor so that it can be conveyed quickly and have the necessary processing functions performed quickly and easily.

Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen or Hamann as applied to claim 1 above, and further in view of EP Patent No. 1038443 to Meyn.

Referring to claims 17-20, Meyn discloses accommodation spaces at – 3-5 for the legs of the carcass, the accommodation spaces forming a continuous horizontal slit – see for example figures 1-2, and the distance between the accommodation spaces at their one end being different from the distance therebetween at their other end – see for example figures 1-2 where the distance between the inner portions – 8 of the slit differ from the distance between the outer portions – at 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Janssen or Hamann and add the holder of Meyn, so as to allow for less impedance to the movement of the carcass inside the holder.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamann in view of Janssen. Hamann discloses an apparatus for transferring poultry carcasses from a first overhead conveyor to a second overhead conveyor comprising, a transfer wheel – at 2 and/or 3, positioned between the first – at 1 and the second – at 4 overhead conveyors, the transfer wheel having a central axis and a perimeter rotatable about the central axis, a plurality of bird holders – see figures 1-2, spaced about the perimeter of the transfer wheel for receiving poultry carcasses from the first overhead conveyor and carrying the poultry carcasses from the first overhead

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conveyor about the central axis to the second overhead conveyor and delivering carcasses to the second overhead conveyor, and orientation control means – at 5 and/or 6, responsive to the rotation of the transfer wheel for progressively maintaining the orientation of the bird holders and the carcasses carried by the bird holders as the transfer wheel rotates, so that the carcasses retain their orientation as received from the first overhead conveyor and are delivered to the second overhead conveyor in the same orientation as received from the first overhead conveyor – see for example figures 1-2. Hamann does not disclose the orientation is the same as the holder is moved around the transfer wheel. Janssen does disclose the orientation means being adapted for keeping spatial orientation of the carcass in the holder constant during the transport on the transfer wheel – see for example figures 1-9. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hamann and add the orientation means allowing the carcass to have the same orientation while on the transfer wheel of Janssen, so as to more accurately and quickly place the carcass onto another conveying line.

### *Response to Arguments*

4. Applicant's arguments with respect to claim 1-24 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

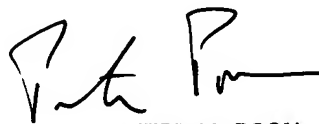
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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.

  
PETER M. POON  
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7/3/03